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ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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09-0052
CHIEF CLERK'S OFFICE

BitWise Communications, Inc. :
-vs- :
Illinois Bell Telephone Company (AT&T) :
:
Complaint as to over-billing and :
threatened termination of service. :

COMPLAINANT RESPONSE TO NOTICE OF RULING

On January 28, 2009, Administrative Law Judge Eve Moran had the Chief Clerk of the Illinois Commerce Commission issue a Notice of Ruling which required the Complainant, BitWise Communications, Inc. to provide the following information at the hearing to be held on February 6, 2009, summarized, as follows:

2. Complainant shall bring in an account of the amounts it claims to be overbilled together with an account of the amounts it would owe under the allegedly correct billing.

BitWise is a small Local Exchange Carrier and does not have the wherewithal to provide all amounts claimed as overbilling going back to 2003-2004. Attachment A is a spreadsheet indicating the payments made on the accounts in question totaling \$464,540.02. BitWise cannot calculate the amounts overbilled, but asserts that it should not be liable for any amounts owed on the accounts in question. BitWise would have to engage in discovery with AT&T to determine the overbilling.

BitWise contends that it should have been billed \$0/month for local interconnection past the Point of Interconnection ("POI") on account 217 S60-4625 (Champaign LATA); 217 S60-1710 710 (Springfield LATA), and 217 S60 3848 376 (Quincy LATA). BitWise contends that AT&T has mis-classified these circuits as Intestate Access when, in fact, they are local interconnection.

The largest charge on each of these bills is for DS3 to DS1 MUX'ing past the POI. Appendix NIM (Network Interconnection Methods) SBC-13 State/BitWise Communications, Inc., Sections 2.2 POIs, provides: "Both parties shall negotiate the architecture in each location that will seek to mutually minimize and equalize investment." Section 2.3 discusses the "balance in the provision of facilities that is fair to both parties." These provisions are silent regarding muxing DS3's or DS1's.

Also, with regard to the above three accounts, another issue relates to the DS1's that go from the MUX to Verizon. BitWise contends that if these should not be at no cost, they should be billed at ICA local prices for inter-office DS1's.

With regard to the fourth account, 217 S60 4619 619, all of the above arguments apply, but in addition, this account also has E911 circuits and a DS3 cross connect. The E911 circuits should be billed at ICA local inter-office DS1 prices since they go from the PEORILPJ CO to the PEOPILPB CO which houses the selective router. The DS3 should be billed at local prices because the circuit does not leave AT&T's building. Local wires are used.

The other issues are set forth in the Formal Complaint and attachments. It should be noted that a substantial amount of money claimed to be owed to AT&T is interest.

The issues presented in this complaint require a period for discovery by each side, Staff review and pre-filed testimony and a formal hearing.


4. Provide documents, law, etc. relevant to termination of service.

The applicable law is found in 83 Ill. Adm. Code 735.190(d) and 200. As noted in the Notice of Ruling, these sections require the maintenance of the status quo during the pendency of this proceeding. All of the bills in question are in dispute. Until these

bills are resolved, BitWise should not be required to pay anything. BitWise is willing to discuss settlement of this complaint beginning with the February 6, 2009 hearing.

Based on all of the foregoing, BitWise Communications, Inc. respectfully requests that the status quo be maintained, service not be terminated to the foregoing accounts, and that the Notice of Intent to Disconnect filed by AT&T be denied.

Respectfully submitted,
BitWise Communications, Inc.

By: 
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CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2009, I serve a copy of Complainant Response to Notice of Ruling by causing a copy thereof to either be place in the U.S. Mail, first class postage affixed, electronic transmission, or in hand delivery, addressed to each of the parties indicated below:

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